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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV03-905-4 FR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate established for the Citrus Administrative Committee (Committee) for the 2003-04 and subsequent fiscal periods from \$0.005 to \$0.006 per 4/5 bushel carton of oranges, grapefruit, tangerines, and tangelos handled. The Committee locally administers the marketing order, which regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. Authorization to assess Florida citrus handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: September 30, 2003.

FOR FURTHER INFORMATION CONTACT:

William G. Pimental, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 799 Overlook Drive, Suite A, Winter Haven, Florida 33884-1671; telephone: (863) 324-3375, Fax: (863) 325-8793; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 84 and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Florida citrus handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein is applicable to all assessable oranges, grapefruit, tangerines, and tangelos grown in Florida, beginning August 1, 2003, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to

review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule increases the assessment rate established for the Committee for the 2003-04 and subsequent fiscal periods from \$0.005 per 4/5 bushel carton to \$0.006 per 4/5 bushel carton of oranges, grapefruit, tangerines, and tangelos grown in Florida.

The Florida citrus marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of oranges, grapefruit, tangerines, and tangelos. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2001-02 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on July 1, 2003, and unanimously recommended 2003-04 expenditures of \$247,000 and an assessment rate of \$0.006 per 4/5 bushel of oranges, grapefruit, tangerines, and tangelos grown in Florida based on a crop estimate of 45 million 4/5 bushels. In comparison, last year's budgeted expenditures were \$250,700. The assessment rate of \$0.006 is \$0.001 higher than the \$0.005 rate previously in effect. This increase reflects the Committee's expectation of lower shipments in the coming year resulting in less assessment income to cover expenses. In addition, the Committee wants to increase the monies available in their reserve fund.

The major expenditures recommended by the Committee for the 2003-04 fiscal year include \$126,000 for salaries, \$25,000 for Manifests-USDA-FDACS, \$21,000 for insurance and